IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Dara Singh v. State of Rajasthan & Ors.

S.B.CIVIL WRIT PETITION NO.3070/2000
under Articles 226 and 227 of the Constitution of India.

Date of Order : 15th July, 2005

P R E S E N T

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. J.L.Purohit, for the petitioner.
Mr. B.L.Tiwari, Addl.Govt.Advocate.

BY THE COURT :

By an order dated 11.3.1991 passed by allotting authority i.e. Sub Divisional Officer (Revenue), Raisinghnagar, a piece of land measuring 20 bighas was allotted to the petitioner under Rajasthan Colonisation (Allotment and Sale of Government Land in Indira Gandhi Canal Project Area) Rules, 1975 (hereinafter referred as “the Rules of 1975”). On allotment of land the petitioner deposited first and second instalments towards cost of land, accordingly possession of land was delivered to the petitioner on 16.3.1991.

One Shri Birbal (respondent No.5) submitted an application before Sub Divisional Officer (Revenue) Raisinghnagar purporting to be a review application to quash the order of allotment dated 11.3.1991. Shri Birbal contended in the application referred above that 21 bighas of land out of the land allotted to the petitioner was allotted to Shri Mukhram on 12.12.1967. Shri Birbal claimed himself as brother of aforesaid Shri Mukhram. Shri Birbal also contended in the application tht the land referred above was allotted to Shri Mukhram being a Bhakhra landless person and Shri Mukhram before his death deposited the instalments towards cost of the land. The Sub Divisional Officer (Revenue), Raisinghnagar by his order dated 29.4.1991 accepted the application preferred by Shri Birbal and directed the petitioner to hand over possession of 21 bighas of land to Shri Birbal. The review application was decided by Sub Divisional Officer (Revenue) without giving even a notice to the petitioner, therefore, the Revenue Appellate Authority, Sriganganagar by order dated 29.4.1991 while accepting the appeal preferred by the petitioner set aside the order dated 29.4.1991 passed by the Sub Divisional Officer (Revenue) and ordered to decide the review application afresh after a notice to the parties. In pursuance of the directions given by the Revenue Appellate Authority referred above the allotting authority decided the review application

afresh by order dated 27.7.1992. The allotting authority by order dated 27.7.1992 maintained its earlier directions and ordered to hand over possession of 21 bighas of land to Shri Birbal.

The petitioner being aggrieved by the same preferred an appeal before the Revenue Appellate Authority, Sriganganagar but the same was dismissed by order dated 28.7.1994.

Being aggrieved by the same a second appeal was preferred by the petitioner before the Board of Revenue and that came to be disposed of by judgment dated 23.6.2000. The Board of Revenue by judgment dated 23.6.2000 held that respondent No.5 Shri Birbal failed to establish himself as legal representative of deceased Mukhram, therefore, the orders passed by the allotting authority and the Revenue Appellate Authority dated 29.4.1991 ad 27.7.1992 respectively are illegal and, therefore, the order for handing over possession of land measuring 21 bighas to the respondent No.5 was quashed. The Board of Revenue further observed that the allotment of land to the petitioner has been cancelled by lower authorities by keeping in view all the circumstances particularly the instructions issued by Hon'ble Supreme Court to the effect that the land allotted to Bhakhra landless persons should not be allotted to other persons, therefore, the allotment of the same to the petitioner

was illegal. The Board of Revenue ordered to vest the land with State Government and to allot the same afresh to the landless persons.

Being aggrieved by the same, present writ petition is preferred by the petitioner.

I have heard counsel for the parties and also scanned the documents available on record.

The Board of Revenue while cancelling the allotment of land made in favour of the petitioner observed that the land in question was reserved for Bhakhra landless persons and, therefore, the same was not open for allotment to the petitioner. While giving this finding the Board of Revenue as well as the Revenue Appellate Authority and the allotting authority have not given any specific reference of any instructions for such a bar. The land in dispute was allotted to the petitioner in the year 1991. The petitioner is having possession over the land since then and allotment made in favour of an eligible person cannot be cancelled by mere mention of the instructions in vague manner. No details of the instructions of the State Government or the orders of Supreme Court is given by the courts below to substantiate the finding that the land was not open for allotment to the persons like petitioner.

A reply to the writ petition has been filed on behalf of the respondents that too lacks details of such instructions.

In view of it I do not find any just and valid reason to cancel the allotment of land made in favour of the petitioner.

Consequently, the writ petition deserves acceptance, therefore, the orders impugned dated 23.6.2000, 28.7.1994 and 27.7.1992 passed by the Board of Revenue Rajasthan, Ajmer; Revenue Appellate Authority, Sriganganagar and Sub Divisional Officer (Revenue), Raisinghnagar respectively are hereby quashed and set aside and the writ petition is allowed accordingly.

No order as to costs.

(GOVIND MATHUR),J.

kkm/ps.